



PLANNING COMMISSION ACTION MINUTES

Tuesday, June 22, 2010, 7:00 pm

1. Invocation
2. Pledge of Allegiance
3. Call to Order - ***The meeting was called to order at 7:09 p.m.***

Members Present:

Paul Moore

Jennifer Fletcher

George Ragsdale

Joe Creamer

Chris Doty

Curtis Mills – Arrived at 7:16 p.m.

Members Absent:

Fred Edwards

4. Public Comment - There were no public comments.

A motion was made by Paul Moore and seconded by Joe Creamer to close Public Comment. The motion passed unanimously 5-0.

5. Approval of Action Minutes – May 25, 2010 Planning Commission Meeting

A motion was made by Joe Creamer and seconded by Paul Moore to approve the minutes. The motion passed unanimously 5-0.

6. Proposed additional amendments to the City of Milton Planning Commission By-Laws as discussed at the May 25, 2010 meeting.

A motion was made by Joe Creamer and seconded by Paul Moore to approve the amendments to the City of Milton Planning Commission By-Laws as discussed at the May 25, 2010 meeting. The motion passed unanimously 5-0.

7. Continued discussion of the process and procedures for text amendments and other associated documents.

A motion was made by Paul Moore and seconded by Jennifer Fletcher to forward the process and procedures for text amendments and other associated documents be forwarded to the July 12, 2010 Council Work Session. The motion passed unanimously 6-0.

8. Discuss/prioritize list of "hot topics" items for future Planning Commission action.



City of Milton

Deerfield Professional Centre 13000 Deerfield Parkway Building 100, Suite 107 C Milton, GA 30004

After discussing the various items on the list, Ms. Lynn Tully will edit the list according to the input from the Planning Commission members as well as writing a memo to be forwarded to the Mayor and City Council.

9. Report on status of Historic Preservation Ordinance.

Ms. Lynn Tully informed the Commission that the Historic Preservation Ordinance was approved by the Mayor and City Council. In addition Ms. Tully explained the next steps that Staff and the Council will need to accomplish to implement the Historic Preservation Ordinance.

10. Adjourn

A motion was made by Paul Moore and seconded by Joe Creamer to adjourn the meeting. The motion passed unanimously 6-0. Time of adjournment was 7:48 p.m.

Date Approved

George Ragsdale, Chairperson

Sec. 64-74. - Nonconforming lots, uses and structures.

Within the zoning districts established by this ordinance, there may exist lots, structures, and uses of both land and structures which were lawful before this ordinance was adopted or subsequently amended, but which would be prohibited, regulated, or restricted under the terms of this zoning ordinance as adopted or subsequently amended. Nonconforming lots, uses and structures may continue in their nonconforming status with the following limitations and requirements:

(1) *Nonconforming lot.* A single, lawful lot-of-record which does not meet the requirements of this ordinance for area or dimensions, or both, may be used for the buildings and accessory buildings necessary to carry out permitted uses subject to the following provisions:

- a. Parking space requirements as provided for in article VIII are met;
- b. Such lot does not adjoin another vacant lot or portion of a lot in the same ownership; and
- c. If two or more adjoining lots or portions of lots in single ownership do not meet the requirements established for lot width, frontage or area, the property involved shall be treated as one lot, and no portion of said lot shall be used or sold in a manner which diminishes compliance with this ordinance. This subsection shall not apply to nonconforming lots when 50 percent or more of adjoining lots on the same street are the same size or smaller.

(2) *Nonconforming uses of land.* When a use of land is nonconforming pursuant to the provisions of this ordinance, such use may continue as long as it remains otherwise lawful and complies with the following provisions:

- a. No nonconforming use shall be enlarged, increased or extended to occupy a greater area of land than that which was occupied at the time use became nonconforming;
- b. No nonconforming use shall be moved in whole or in part to any other portion of the lot not occupied by such use at the time the use became nonconforming; and
- c. If any nonconforming use of land ceases for a period of more than one year, any subsequent use of such land shall comply with this ordinance.

(3) *Nonconforming use of structures.* If a lawful use of structure, or of a structure and lot in combination, exists at the effective date of this zoning ordinance or its subsequent amendment that would not be allowed under provisions of this ordinance as adopted or amended, the use may be continued so long as it complies with other regulations, subject to the following conditions:

- a. No existing structure devoted to a use not permitted by this ordinance shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a permitted use;
- b. Any nonconforming use may be extended throughout any part of a building which was arranged or designed for such use at the time the use became nonconforming, but no such use shall be extended to occupy any land outside such building;
- c. If no structural alterations are made, any nonconforming use of a structure or structure and land may be changed to another nonconforming use of the same or more restrictive nature;

d. When a nonconforming use of a structure or a structure and land in combination is replaced with a conforming use, such structure or land may not later revert to a nonconforming use;

e. When a nonconforming use of a structure or structure and land in combination is discontinued or abandoned for one year, the structure or structure and land in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located; and

f. A nonconforming use of a structure or a nonconforming use of land shall not be extended or enlarged by attachment to a building or land of additional signs which can be seen from off the land or by the addition of other uses of a nature which would be prohibited generally in the district.

(4) *Nonconforming structures.* When a structure exists on the effective date of this zoning ordinance or its amendments that could not be built under the terms of this ordinance because of restrictions on building area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may remain as long as it complies with all other zoning regulations, subject to the following conditions:

a. No structure may be enlarged or altered in a way which increases its nonconformity;

b. Destruction, by any means, of more than 60 percent of the gross square footage of a structure shall require that the structure be reconstructed in conformity with the provisions of this ordinance;

c. Any structure which is moved, for any reason and for any distance whatever, shall conform to the regulations for the district in which it is located; or

d. Telecommunications facilities.

1. All telecommunications facilities existing on the effective date of this zoning ordinance shall be allowed to continue to be used as they presently exist.

2. Routine maintenance, including modifications to accommodate the collocation of an additional user, shall be permitted on existing telecommunications facilities.

3. Replacement of antennas on a structure with different antennas shall be considered routine maintenance so long as the replacement antenna does not increase the height of any existing structure.

(5) *Rezoning which results in nonconforming structures.* When a property containing lawful structures is rezoned, the following shall apply:

a. The approval of the rezoning by the city council shall automatically adjust minimum/maximum yards to the extent necessary for existing structures to comply.

b. All new construction, expansions or additions shall comply with the minimum yard requirements of the new district.

c. Buffers and landscape areas shall be established by conditions of zoning which shall have precedence over the district standards contained in section 64-237

d. Destruction or removal of buildings which preexisted rezoning shall reinstate the development standards of the then applicable district provisions of this zoning ordinance.

(6) *Exemptions due to state or city action.* Whenever a lot becomes nonconforming as a result of land acquisition by the county or state, building permits shall be granted for new construction provided the proposed structure complies with all but lot area requirements, and setback requirements shall be reduced without the requirement for a variance to the extent of the width of the acquired property.

Whenever a structure becomes nonconforming as a result of city, county or state action other than an amendment to this zoning ordinance, the use of the structure may continue and the structure may be replaced as though no nonconformity exists if, subsequent to such action, the structure is destroyed

Sec. 64-1097. - Miscellaneous provisions. (State Route 9 Overlay District)

- (a) Telecommunications switchboards, power generators, and other telecommunications relay equipment rooms or floors housing such uses are limited to the following areas of a building:
 - (1)Subterranean levels;
 - (2)First and second floors which are set back a minimum of 50 feet from the street; or
 - (3)Third and fourth floors.
- (b) Stealth design is required for all cell towers.
- (c) Height of cell towers shall not exceed 199 feet.
- (d) The wireless communications facility shall be disassembled and removed from the site within 90 days of the date its use for wireless telecommunications is discontinued.
- (e) Neither parking lots nor areas immediately adjacent to a building shall be used for storage or sale of goods.
- (f) Storage of shopping carts is allowed without a permit.
- (g) Displaying or sale of goods outside the interior permanent and sheltered portions of a building is prohibited. Exceptions: seasonal holiday trees, pumpkins, and open air fairs provided an administrative permit is obtained, pursuant to section 64-1608.
- (h) Vending machines, paper stands, and other similar devices must be located interior to the building structure.

Sec. 64-1592. - Alternative antenna support structure to exceed the district height.

Pursuant to section 704(a) of the Federal Telecommunications Policy Act of 1996, it is not the intent of this section to prohibit or have the effect of prohibiting the provision of personal wireless services in the city. It is the intent of this section to address the aesthetic effect of telecommunication facilities on our landscapes, our citizens' demands for these services, and the needs of service providers.

(1) *Required districts.* All.

(2) *Standards.*

- a. Alternative structures are not allowed as an accessory to a single-family use or as a principal use in a single-family district.
- b. Alternative structures must be set back a distance equal to the height of the structure adjacent to residential or AG-1 zoned property unless said structure is proposed to be located on an existing building.
- c. Above ground equipment shelters shall be surrounded by a minimum ten-foot wide landscape strip planted to buffer standards unless the city arborist determines that existing plant materials are adequate.
- d. Rooftop antennas and associated structures shall not project more than ten feet above roof line.
- e. Height shall not exceed 130 feet measured from the finished grade of the base structure.
- f. The alternative structure shall comply with applicable state and local statutes and ordinances including, but not limited to, the building and safety codes. Alternative structures which have become unsafe or dilapidated shall be repaired or removed pursuant to applicable state and local statutes and ordinances.
- g. Facilities shall not be artificially lighted except to ensure human safety or as required by the Federal Aviation Administration (FAA).
- h. Communication towers shall be designed and constructed to ensure that the structural failure or collapse of the tower will not create a safety hazard to adjoining properties, according to applicable federal standards which may be amended from time to time.
- i. Telecommunications facilities shall not be used for advertising purposes and shall not contain any signs for the purpose of advertising.
- j. Any telecommunications facility may collocate on any existing tower, pole or other structure as long as there is no increase in height to the existing facility.
- k. A telecommunications facility that ceases operation for a period of 12 consecutive months shall be determined to have terminated and shall be removed within 90 days of termination at the property owner's expense. It shall be the duty of both the property owner and the tower owner to notify the city in writing of any intent to abandon the use of the tower.
- l. An application for a telecommunications facility shall be submitted in accordance with the department's plan review submittal requirements.
- m. An application for a telecommunications facility shall include a certification from a registered engineer that the structure will meet the applicable design standards for wind loads.
- n. Communications facilities shall not be located in 100-year floodplain or delineated wetlands.

Sec. 64-1594. - Antenna, tower and associated structures (radio, T.V., microwave broadcasting, etc.) to exceed the district height.

- (a) *Purpose.* Pursuant to section 704(a) of the Federal Telecommunications Policy Act of 1996, it is not the intent of this section to prohibit or have the effect of prohibiting the provision of personal wireless services in the city. It is the intent of this section to address the aesthetic effect of telecommunication facilities on our landscapes, our citizens' demands for these services, and the needs of service providers.
- (b) *Design, placement and height limit.* The following regulations on design, location, placement, and height limits of antennas implement city's governmental interest in land planning, aesthetics and public safety by requiring the following administrative permit standards:
- (1) *Required districts.* O-1, C-1, C-2, M-1A, M-1, M-2 (see use permit, section 64-1801, for use in residential and AG-1 districts).
 - (2) *Standards.*
 - a. Tower/accessory structures must be set back a distance equal to the height of the tower adjacent to residential or AG-1 zoned property.
 - b. Tower and associated facilities shall be enclosed by fencing not less than six feet in height and shall also be equipped with an appropriate antilimbing device.
 - c. A minimum ten-foot-wide landscape strip planted to buffer standards shall be required around the facility exterior to any fence or wall unless the city arborist determines that existing plant materials are adequate.
 - d. Height shall not exceed 200 feet measured from the finished grade of the base structure.
 - e. The tower shall comply with applicable state and local statutes and ordinances including, but not limited to, the building and safety codes. Towers which have become unsafe or dilapidated shall be repaired or removed pursuant to applicable state and local statutes and ordinances.
 - f. Facilities shall not be artificially lighted except to ensure human safety or as required by the Federal Aviation Administration (FAA).
 - g. Communication towers shall be designed and constructed to ensure that the structural failure or collapse of the tower will not create a safety hazard to adjoining properties, according to applicable federal standards which may be amended from time to time.
 - h. Telecommunications facilities shall not be used for advertising purposes and shall not contain any signs for the purpose of advertising.
 - i. Any telecommunications facility may collocate on any existing tower, pole or other structure as long as there is no increase in height to the existing facility.
 - j. A commercial telecommunications facility that ceases operation for a period of 12 consecutive months shall be determined to have terminated and shall be removed within 90 days of termination at the property owner's expense. It shall be the duty of both the property owner and the tower owner to notify the county in writing of any intent to abandon the use of the tower.

- k. Communication facilities not requiring FAA painting/markings shall have either a galvanized finish or be painted a dull blue, gray, or black finish.
- l. An application for a telecommunications facility shall be submitted in accordance with the department's plan review submittal requirements.
- m. An application for a telecommunications facility shall include a certification from a registered engineer that the structure will meet the applicable design standards for wind loads.
- n. Communication facilities shall not be located in 100-year floodplain or delineated wetlands.

Sec. 64-1801. - Antenna tower and associated structure (radio, T.V., microwave broadcasting, etc.) to exceed the district height.

- (a) *Purpose and intent.* Pursuant to Section 704(a) of the Federal Telecommunications Policy Act of 1996, it is not the intent of this section to prohibit or have the effect of prohibiting the provision of personal wireless services in the city. It is the intent of this section to address the aesthetic effect of telecommunication facilities on our landscapes, our citizens' demands for these services, and the needs of service providers.
- (b) *Design, placement and height limits.* The following regulations on design, location, placement, and height limits of antennas in residential and AG-1 zoned districts implements the city's governmental interest in land planning, aesthetics and public safety by requiring the following use permit standards:
- (1) *Required districts.* Residential districts, MIX and AG-1 (see same heading in division 3, subdivision II of this article, for other nonresidential districts).
 - (2) *Standards.*
 - a. Towers must be set back a distance equal to 1½ times the height of the tower adjacent to residential or AG-1 zoned property
 - b. Height shall not exceed 200 feet from existing grade.
 - c. Tower and associated facilities shall be enclosed by fencing not less than six feet in height and shall also be equipped with an appropriate antilimbing device.
 - d. A minimum ten-foot landscape strip planted to buffer standards shall be required surrounding the facility exterior to the required fence unless the city arborist determines that existing plant materials are adequate.
 - e. Antennas or towers shall not have lights unless required by federal or state law.
 - f. Towers shall not be located within one-half mile from any existing telecommunication tower above the district height, excluding alternative structures.
 - g. The tower shall comply with applicable state and local statutes and ordinances, including, but not limited to, the building and safety codes. Towers which have become unsafe or dilapidated shall be repaired or removed pursuant to applicable state and local statutes and ordinances.
 - h. Facilities shall not be artificially lighted except to ensure human safety or as required by the Federal Aviation Administration (FAA).
 - i. Communication towers shall be designed and constructed to ensure that the structural failure or collapse of the tower will not create a safety hazard to adjoining properties, according to applicable federal standards which may be amended from time to time.
 - j. Telecommunications facilities shall not be used for advertising purposes and shall not contain any signs for the purpose of advertising.
 - k. Any telecommunications facility may collocate on any existing tower, pole or other structure as long as there is no increase in height to the existing facility.
 - l. A commercial telecommunications facility that ceases operation for a period of 12 consecutive months shall be determined to have terminated and shall be removed within 90 days of termination at the property owner's expense. It shall be the duty of

both the property owner and the tower owner to notify the city in writing of any intent to abandon the use of the tower.

- m. Communication facilities not requiring FAA painting/marketing shall have either a galvanized finish or be painted a dull blue, gray, or black finish or shall be screened through fencing and landscaping.
- n. An application for a telecommunications facility shall be submitted in accordance with the department's plan review submittal requirements.
- o. An application for a telecommunications facility shall include a certification from a registered engineer that the structure will meet the applicable design standards for wind loads.
- p. Communication facilities shall not be located in 100-year floodplain or delineated wetlands.



To: City of Milton Planning Commission

From: Robyn MacDonald, Planner

Date: July 21, 2010 for July 28, 2010 Planning Commission meeting

Agenda Item: **RZ10-02 - Text Amendments to various section of Chapter 64**, City of Milton Zoning Ordinance to be consistent with the City of Milton Telecommunications Ordinance (Chapter 54 of the City Code of Ordinances).

Background:

The Mayor and City Council approved a Telecommunications Ordinance (Chapter 54 of the City Code of Ordinances) on December 7, 2009. An amended version is tentatively scheduled to come before the Mayor and City Council on August 2, 2010 for approval. This ordinance addresses all aspects of location, site requirements, height, etc. of telecommunication towers. Staff recommends that where the Zoning Ordinance addresses any type of telecommunication structures/equipment that it should be deleted or amended to be consistent with the Telecommunications Ordinance.

Discussion:

There are a total of five sections within the Zoning Ordinance that address telecommunication towers that are being amended or deleted. Below is a short explanation of each:

- 1) **Section 64-74- Nonconforming lots, uses and structures.** This section states that existing facilities on the effective date of the zoning ordinance shall be allowed to continue to be used; routine maintenance, including modifications to accommodate the collocation of an additional user, shall be permitted on existing facilities; and replacement of antennas on a structure with different antennas shall be considered routine maintenance so long as it does not increase the height of any existing structure. This section should be deleted because it is addressed in the Telecommunications Ordinance.
- 2) **Section 64-1097- Miscellaneous provisions of the State Route 9 Overlay District.** The State Route 9 Overlay District does address the aesthetics and size of telecommunication structures. Staff recommended deletion of the height reference based on the fact that the Telecommunications Ordinance addresses heights of towers for the entire City. In addition, the Telecommunications Ordinance addresses the removal of towers that discontinue operation.

The requirement for stealth design within the SR 9 Overlay District remains since this is a requirement that is more strict than the Telecommunications Ordinance and addresses the aesthetics of the tower.



- 3) **Section 64-1592- Alternative antenna support structure to exceed the district height.** This section is the administrative permit that allows alternative structures up to 130 feet in height within all zoning districts. This entire section should be deleted because all towers including alternative antenna support structures and stealth technology are addressed within the Telecommunications Ordinance.
- 4) **Section 64-1594- Antenna, tower and associated structures (radio, T.V., microwave broadcasting, etc.) to exceed the district height. (O-I, C-1 M-1A, M-1, M-2)** This section is the administrative permit that allows towers to exceed the district height up to 200 feet in height within the O-I (Office-Institutional), C-1 (Community Business), C-2 (Commercial), M-1A (Industrial Park), M-1 (Industrial), M-2 (Heavy Industrial). This entire section should be deleted because all tower heights and other requirements are addressed within the Telecommunications Ordinance
- 5) **Section 64-1801- Antenna tower and associated structure (radio, T.V., microwave broadcasting, etc.) to exceed the district height (Residential districts, MIX and AG-1)** This section is the use permit that allows towers to exceed the district height up to 200 feet in height within residential districts, MIX (Mixed Use) and AG-1 (Agricultural). This entire section should be deleted because all tower heights and other requirements are addressed within the Telecommunications Ordinance.

Sec. 64-1606. - Roadside produce stands.

- (a) *Required districts.* MIX, C-1, C-2, M-1, M-2 and AG-1.
- (b) *Standards.*
- (1) No more than four administrative permits shall be granted per year and no single permit shall be effective for more than 30 consecutive days, however, two or more permits, not to exceed four, may be combined for a duration of 60 days, 90 days or a maximum of 120 days. An application for said permit shall be made no less than 14 days prior to the event. Said permit must be posted on site such that it is visible from the street.
 - (2) The hours of operation shall be 8:00 a.m. to 8:00 p.m.
 - (3) Two copies of a drawing, no larger in size than 11 inches by 17 inches, with dimensions (distances in feet) of the activity's location from the site's property lines and other minimum distance requirements as specified by this section shall be submitted to the community development department for approval. Said drawing shall also depict north arrow, curb cuts and traffic patterns.
 - (4) The applicant shall provide a notarized written permission statement of the property owner or lease holder of the subject site to the community development department. A 24-hour contact number of the property owner or leaseholder shall be provided along with permit application.
 - (5) The property on which the roadside vendor is permitted must be located at least 1,500 feet from a permanent business or another vendor which offers the same or similar merchandise as that of the vendor. The vendor shall provide names of all established businesses which sell similar or the same merchandise within 1,500 feet of the proposed vendor site.
 - (6) Any activity or structure shall maintain a minimum 20-foot setback from the right-of-way and not be located within a required landscape strip or buffer. Said activity or structure shall also maintain a minimum setback of ten feet from any internal drive or permitted curb cut.
 - (7) A minimum of six parking spaces shall be provided for the exclusive use of the roadside produce stand and shall not occupy the minimum required parking spaces for any other use on site.
 - (8) No temporary sanitary facility or trash receptacle may be located within 100 feet of a property line of a residential use.
 - (9) No tent, table or other temporary structure shall be located within 100 feet of a residential structure. All tents are subject to the fire department's approval.
 - a. Tents less than 5,000 square feet do not require a building permit.
 - b. Tents equal to or greater than 5,000 square feet require structural plan review and a building permit.
 - (10) No equipment, vehicle, display or sales activity shall block access to a public facility such as a telephone booth, mail box, parking meter, fire hydrant, fire alarm box, traffic control box, driveway or other access point.
 - (11) A sound level of 65 dBA shall not be exceeded at adjacent property lines of any residential use.
 - (12) Signage shall be in accordance with article XVI of this zoning ordinance.



To: City of Milton Planning Commission

From: Robyn MacDonald, Planner

Date: July 20, 2010 for July 27, 2010 Planning Commission Meeting

Agenda Item: **RZ10-03 - Text Amendments to Chapter 64, Section 64-1606(a)** of the City of Milton Zoning Ordinance, Roadside produce stands to include MIX (Mixed Use) district.

Background:

It was discovered that the administrative use permit for roadside produce stand did not include the MIX (Mixed Use) district in the list of approved zoning districts.

Discussion:

The current administrative permit for a roadside produce stand does not include the MIX (Mixed Use) district list current approved districts. Based on the fact that the MIX district allows retail/commercial, it should be included in the required districts listed in the administrative use permit. Staff does not anticipate that there will be any negative affect by including the MIX district in the list of required zoning districts in the administrative permit.